

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Kevin Twyman,

Case No. 21-CV-1793 (WMW/ECW)

Petitioner,

v.

REPORT AND RECOMMENDATION

B. Birkholz and Michael Carvajal,

Respondents.

On August 5, 2021, the Clerk of this Court order sent Petitioner Kevin Twyman a letter (1) stating that the Court had not received from Twyman either this action’s filing fee or an application to proceed *in forma pauperis* (“IFP”); (2) enclosing a copy of this District’s template IFP application; and (3) warning Twyman that if the Court did “not receive [his] filing fee or [IFP application], [his] case could be summarily dismissed without prejudice.” (Dkt. 4 at 1.) It has been over three weeks since the Clerk sent this letter, and Twyman has not submitted a filing fee or IFP application. (In fact, Twyman has not communicated with the Court about this case at all since commencing this action.) Accordingly, this Court now recommends that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See, e.g., Henderson v. Renaissance Grand Hotel*, 267 F. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has

discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).¹

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein,
IT IS HEREBY RECOMMENDED that this action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

Dated: September 1, 2021

s/Elizabeth Cowan Wright
ELIZABETH COWAN WRIGHT
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).

¹ If Twyman submits his filing fee or IFP application within 14 days of this Report and Recommendation’s date, the Court will rescind this Report and Recommendation and the case will proceed.